

REMARKS

The Office Action mailed September 23, 2005 has been reviewed and carefully considered. Claims 13 and 16 are redrafted into independent form, without further revision. Dependent claims 22-26 are added. Claims 1-26 are pending, the independent claims being 1, 4, 13, 16 and 21. Claims 1, 4, 7 and 21 are amended. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

Claims 1, 3-7, 9-12 and 16-21 are rejected under 35 U.S.C. 102(e) as anticipated by U.S. Patent Publication No. 2003/0050834 to Caplan.

Claim 16, now redrafted into independent form but not otherwise revised, recites, ". . . initializing access of the system to a peer-to-peer network . . . the central server being a peer participant in the peer-to-peer network."

Caplan, although disclosing a central server (e.g., [0073]; [0114], first sentence; [0144], second sentence), fails to disclose or suggest ". . . the central server being a peer participant in the peer-to-peer network."

Page 6 of the Office Action cites to [0058]-[0063] in Caplan. Paragraph [0063] mentions a ". . . database which 'fetches' to a server or other nodes . . ." The "fetching" however, appears to be of IP addresses (see [0145]). The "fetching" is not disclosed or suggested to be other than for the purpose of subsequently communicating content with a peer in the peer-to-peer network. Caplan offers no disclosure or suggestion that such a peer is the server mentioned in [0063].

For at least the above reasons, Caplan fails to anticipate the present invention as recited in claim 16.

Reconsideration and withdrawal of the rejection is respectfully requested.

Nor does the applicant see any basis for concluding that it would have been obvious to modify Caplan to more resemble the present claim 16.

Claim 1, as amended, recites, "... b. software executing in the musicbox, the software capable of: i. identifying, without utilizing a central server, other musicboxes executing instances of the software. . ."

Support for the amendment of claim 1 is found in the specification (e.g., page 8, lines 11-16).

Caplan, by contrast, depends upon a central server for posting ([0073], [0074], [0114]) of IP addresses of peer-to-peer network participants (e.g., [0079], next-to-last sentence: "relying on a . . . central facilitator . . ."; [0113], next-to-last sentence: ". . . sends over [to the central server] its own IP address"). Caplan offers no disclosure or suggestion of, ". . . identifying, without utilizing a central server, other musicboxes executing instances of the software. . ." Cooper does not seem to disclose or suggest this aspect of the invention of claim 1. Nor does the instant applicant see how it would have been obvious to modify Caplan to feature this aspect of the invention of claim 1.

Claim 21, as amended, recites, ". . . means for storing persistent data, the persistent data comprising a plurality of data files of a predetermined data format, the data files further secured from unauthorized access . . . identifying, without utilizing a central server, other systems executing the means for accessing the persistent data. . ."

Claim 21 is accordingly deemed to distinguish patentably over Caplan for at least the same reasons set forth above with regard to claim 1.

Claim 4, as amended, and now written in independent form, recites:

said software is configured to perform said securing files from unauthorized access in step (b) (iii) by selecting from among at least the processes:

- (1) securing a data file from unauthorized copying; and
- (2) securing a data file for authorized access

Support for the amendment of claim 4 is found in the specification (e.g., page 10, line 21 - page 11, line 8).

Caplan, by contrast, seems to be silent on the subject of securing a data file "by selecting from among" "securing . . . from unauthorized copying" and "securing . . . for authorized access," especially in the context of former parent claim 1.

With respect to former parent claim 1, the Office Action cites to what Caplan regards as its invention, i.e., pages 11 and 13 (see Office Action, page 3, b) iii).

However, in contrast, regarding formerly dependent claim 4, the Office Action then cites to Caplan's description of the prior art (see Office Action, page 4, item 1) to somehow "modify" Caplan's own invention in view of what Caplan discusses in the prior art. Presumably, however, if Caplan wanted to adopt a feature discussed in its background section for use in its invention, Caplan would have made mention of this in the 14-page patent publication. Caplan does not seem to have made such mention. Moreover, Caplan does not appear to disclose or suggest the above-quoted aspects particular to claim 4 anywhere in the Caplan patent publication. Therefore, even free use, by the Office Action, of Caplan's prior art to "vitalize" the Caplan disclosure in the Detailed Description section does not appear to provide sufficient support for an embodiment that would read on the present claim 4, as amended. Cooper does not appear to make up the difference. Nor would it have been obvious to modify Caplan to resemble the present invention as recited in claim 4.

Claims 2, 8 and 13-15 stand rejected under 35 U.S.C. 103(a) as unpatentable over Caplan in view of U.S. Patent Publication 2001/0051996 to Cooper et al. ("Cooper").

Claim 13, now redrafted into independent form but not otherwise revised, recites, ". . . initializing access of the system to a peer-to-peer network . . . further comprises limiting a user to at least one of a read-only or transient access mode."

As page 10 of the Office Action acknowledges, Caplan fails to disclose or suggest the second of the two above-quoted clauses of claim 13.

However, the Office Action suggests that Cooper makes up the difference. The instant applicant traverses this suggestion by the Office Action.

The Office Action cites to [0043]-[0046] in Cooper, presumably for the use of the phrase "modified in transit" in [0045].

Paragraph [0045], however, refers to verifying the integrity of a received transmission by checking that content was not "modified in transit."

It is unclear to the present applicant what paragraph [0045], other citation by the Office Action, or any disclosure whatsoever in Cooper has to do with the portion of the present claim 13 the Office Action acknowledges is not disclosed or suggested in Caplan.

For at least the above reasons, claim 13 is not believed to be rendered obvious by Caplan in view of Cooper.

Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 2, 8, 14 and 15 depend from claim 1, and Cooper cannot compensate for the shortcomings of Caplan.

Each of the other rejected claims depends from a base claim that has been shown to be patentable over the prior art of record, and each is deemed to distinguish patentably over the prior art of record at least due to its dependency.

However, each defines an additional aspect of the invention, and warrants further consideration based on its individual merits.

For example, claim 17 recites, ". . . indentifying a musicbox to other participants in the peer-to-peer network by pinging for an identity of the other participants in the peer-to-peer network." The Office Action cites to Caplan paragraphs [0090], [0145]-[0147]. However, a review of the cited portions of the Caplan disclosure does not appear to shed light on the basis for the suggestion by the Office Action that claim 17 is "anticipated" by Caplan.

As another example, claim 11 recites, ". . . requiring access by the musicbox to the peer-to-peer network on a predetermined periodic basis."

The occurrence of idle time, at a Caplan client, launches a communicator module (FIG. 1B, 12a), which leads to delivering file updates from the server (FIG. 1E, 41); however, these "periodic" updates (abstract) do not amount to ". . . requiring access by the musicbox to the peer-to-peer network on a predetermined periodic basis."

Support of new claims 22 and 24 is found in the specification (e.g., page 7, lines 13-16; page 8, lines 11-16, 22, 23).

Support for new claims 23 and 25 is found in the specification (e.g., page 8, lines 12-16).


Support for new claim 26 is found in original claim 4 and in the specification (e.g., page 10, line 21 - page 11, line 8).

A check for \$550.00 ((2 x \$200.00) + (3 x \$50.00)) is enclosed in payment of the fee for adding two independent claims in excess of three, and three additional dependent claims in excess of twenty.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,
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Date: 11/2/05

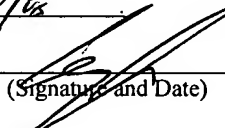

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